

REMARKS

Applicant thanks the Examiner for the careful review of this application. No amendments to the claims and specification were made via this paper. Claims 1-55 are currently pending in this application.

REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 1, 7-13, 15-16, 18, 20-21, 23-30, 35-45, 48, 50, 52 and 54 were rejected under 35 U.S.C. § 102(b) as being anticipated by Calvert (U.S. Patent Application No. 6,526,275). Applicant respectfully traverses for the following reasons.

Calvert apparently discloses a communication system (100) that employs a method for informing a user of a communication device (e.g., 101) where to obtain a product. The communication system determines an approximate location of the communication device and whether a particular requested product or one or more other potentially desirable products are available in a general vicinity of the device. When the particular or potentially desirable product is so available, a context engine server (109) of the communication system conveys a product information request and optionally other purchaser-related information to multiple product providers (120). The context engine server receives responses to the product information request from at least some of the product providers, wherein at least some of the responses preferably include offers to pay respective advertising fees. The context engine server generates a list of product providers based on the responses and provides the list to the communication device for display to the device user.

Applicant respectfully submits that Calvert does not disclose each and every aspect of the claimed embodiments.

For example, independent claims 1, 30, 48, 50, 52 and 54 all require capture of a message carrier on a display screen. Applicant admits that Calvert does disclose a

display screen for a mobile device. However, Calvert provides no teaching for any sort of an image capturing device on the mobile device or elsewhere. As a result, Calvert's disclosure does not teach how a message carrier can be captured. Regarding the message carrier, Calvert teaches textual input of a search query into a mobile device, or perhaps wired device, and that query is transmitted to a remote server for processing to return a list of geographically local results to the mobile or wired device. The message carrier of the claimed embodiments can perhaps contain textual data. However, the claimed embodiments require for that textual data to be obtained from an image of the message carrier and not entered manually by a user. Due to the foregoing deficiencies of Calvert, Applicant respectfully submits that Calvert does not disclose claims 1, 30, 48, 50, 52 and 54.

Regarding claim 8 which discloses that the promotional message comprises an electronic coupon, the Examiner has indicated that Calvert discloses this claim limitation via the following entry:

The product providers **120** respond to the product information request by sending responses back to the context engine server **109** via communication link **122** (again preferably over the Internet). The responses preferably include offers to pay advertising fees and may also include certain terms associated with the particular offers. For example, a provider may require that it be exclusively identified to the communication device user, that it be exclusively identified to the device user for a certain period of time (e.g., ten seconds), that it be listed first in a list of product providers, or that its identity be enhanced in some specified manner (e.g., be accompanied by its trademark, service mark, slogan, or jingle, be illuminated or put in a certain color, be accompanied by an icon, be accompanied by directions from the device user's location to the location of the product provider, or be highlighted using any other technique for emphasizing the provider's identity). The responses may further include specific locations of the providers or at least locations at which the communication device user may obtain the desired product (e.g., locations of retailers of the product provided by responding manufacturers or distributors if such retailers were not sent a product information request or are not stored in the context engine server database), especially when such specific location information is not stored in the context engine server's database. The advertising fees may be offered and paid on a per advertisement basis, pursuant to a periodic (e.g., yearly) subscription, or in any other manner negotiated between the product providers and the context engine server or system operator.

-Calvert, column 9, lines 35-67

However, there is no mention of a coupon or other currency discount to a user in the above-listed passage. There is mention of monetary exchange for payment of advertising from product providers to the system operator. That is not a coupon, though. Elsewhere in Calvert it is mentioned that the product providers can extend offers of credit to the user and that can perhaps be considered to be a coupon:

product providers. The product providers may then use the optional information in a variety of ways, such as to establish advertising bid prices, product price offers, product incentives, and/or offers to extend credit to the device user.

-Calvert, column 15, lines 64-67

Since claim 8 depends from independent claim 1, though, Applicant respectfully submits that claim 8 is allowable since Calvert does not disclose all of claim 1's limitations.

Turning to claims 10, 12, 27, 29, 37 and 39 which disclose that the wireless network may be a GSM, CDMA or TDMA network, the Examiner specified that this is disclosed at both the of the above-quoted column 9, lines 35-67 and at column 3, lines 10-67. Due to the length of the column 3 passage, it is not reproduced here. Both of these passages from Calvert fail to mention GSM, CDMA and TDMA. Additionally, there is no mention of GSM, CDMA and TDMA anywhere in Calvert. Due to this discrepancy, Applicant respectfully submits that claims 10, 12, 27, 29, 37 and 39 are all allowable.

Claims 13, 21 and 40 disclose that the message carrier includes an identifying border and message code and the Examiner has indicated that these claim limitations are disclosed at the aforementioned column 9, lines 35-67 and column 3, lines 10-67 of Calvert. Applicant can not locate an indication for the identifying border or the message code in either section of Calvert. Applicant respectfully requests clarification and / or a more specific location in those passages to reference.

Claims 15, 23 and 41 provide for the message code to be formed from a plurality of blocks and the Examiner has referred the Applicant to Calvert's column 3, lines 10-67. Applicant can not locate any mention of blocks, checkerboards or other similar language in this passage or elsewhere in Calvert except for the brief description of the drawings section wherein several figures are referred to as block diagrams. Applicant

respectfully requests guidance as to the specific location in Calvert that discloses the plurality of blocks.

Guidance is also requested in view of claims 18 and 44 which disclose that the message code is formed using a vertical strip design. Applicant can not locate any mention of vertical strips in column 3, lines 10-67 or elsewhere in Calvert.

Referring to claims 17 and 43, these two claims are complementary to each other in that claim 17 is the method implementation of the message code being a checkerboard-like design and claim 43 is the apparatus implementation. Applicant notes that claim 17 was deemed to be allowable while claim 43 was rejected. Clarification is respectfully requested. In the instance that claim 17 was supposed to be rejected, Applicant respectfully requests the specific location and / or a more detailed explanation of how Calvert discloses the checkerboard-like design.

A similar situation has occurred for claims 19 and 45 which disclose the oversized identifying border. Claim 19 was deemed allowable but claim 45 was rejected. If claim 19 was also meant to be rejected, Applicant respectfully requests where Calvert discloses this because the Examiner indicates that paragraph "0338" is the location. Calvert does not have numbered paragraphs. This appears to be a typo/carryover from the previous Office Action wherein a reference with paragraph numbers was utilized for the rejections of the claims.

Turning to the balance of the rejected claims, namely dependent claims 7, 16, 20, 25-26, 28, 35-36, 38, 39, 42 and 44, Calvert may perhaps disclose certain aspects of those dependent claims. However, they all depend directly or indirectly from independent claims which Applicant respectfully submits are allowable. Therefore,

Applicant further respectfully submits that claims 7, 16, 20, 25-26, 28, 35-36, 38, 39, 42 and 44 are also allowable at least for the reasons put for the independent claims.

In view of the foregoing, withdrawal of the rejections of the claims is respectfully requested.

ALLOWABLE SUBJECT MATTER

Applicant thanks the Examiner for noting the presence of allowable subject matter in claims 2-6, 14, 17, 19, 22, 31-34, 46, 47, 49, 51, 53 and 55. While these dependent claims depend directly or indirectly from rejected independent claims, Applicant has intentionally left these allowable claims in dependent form as Applicant has shown that those independent claims are also allowable.

CONCLUSION

Applicant believes that all pending claims are allowable and a Notice of Allowance is respectfully requested. The amendment was made to expedite the prosecution of this application. Applicant respectfully traverses the rejections of the amended claims and reserves the right to re-introduce them and claims of an equivalent scope in a continuation application.

If the Examiner believes that a conference would be of value in expediting the prosecution of this application, he is cordially invited to telephone the undersigned counsel at the number set out below.

Respectfully submitted,
LAW OFFICE OF MARK J. SPOLYAR

Dated: June 9, 2006

/Mark J. Solyar/
Mark J. Spolyar
Reg. No. 42,164

Customer No. 30505
Law Office of Mark J. Spolyar
2200 Cesar Chavez, Suite #8
San Francisco, CA 94124
Telephone: (415) 826-7966